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SUBJECT: BRAZIL: FTC CHAIRMAN MEETINGS IN BRASILIA

¶1. (SBU) Summary: On November 29, Federal Trade Commission (FTC) Chairman Deborah Majoras met in Brasilia with Ministry of Justice (MoJ) and Administrative Council for Consumer Defense (CADE) officials. Majoras discussed deepening the cooperation between the FTC and the MoJ on consumer protection issues with Ricardo Morishita Wada, Director of the Department of Consumer Protection and Defense (DPDC), and Mariana Tavares, Secretary of Economic Law. Tavares proposed establishing an exchange program with the FTC for MoJ employees, similar to an existing program between FTC and CADE. She described a planned GoB national security program that will have a consumer protection component and noted the introduction of a new bill in the Brazilian Congress that would combine the antitrust functions of two other GoB agencies with that of CADE. Majoras and Tavares also explored the possibility of incorporating Brazil into a multinational consumer complaint database maintained by the FTC. In a separate meeting with Majoras, Vice Minister of Justice Luiz Barreto enthusiastically supported an enhanced relationship between the FTC and MoJ and noted concerns about low quality Chinese imports. Majoras later met with CADE president Elizabeth Farina and the organization's commissioners. The CADE officials were interested in the FTC pre-merger review process, the U.S. "state action" doctrine, and other details about the FTC's organizational structure. End Summary.

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OVERVIEW  
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¶2. (U) In the U.S., antitrust enforcement is divided between the FTC and DOJ while consumer protection falls under the FTC. In Brazil, antitrust issues are handled by the Administrative Council for Consumer Defense (CADE), the Secretariat of Economic Monitoring (SAEA) at the Ministry of Finance and the Secretariat of Economic Law (SDE) at the Ministry of Justice. Consumer protection in Brazil is the responsibility of the Department of Consumer Protection and Defense (DPDC), also under the Secretariat of Economic Law at the Ministry of Justice.

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Meetings at the Ministry of Justice (MoJ)  
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¶3. (SBU) Majoras discussed the need to strengthen cooperation between USG and GoB consumer protection agencies with Ricardo Morishita Wada, Director of the Department of Consumer Protection and Defense (DPDC), and Mariana Tavares, MoJ Secretary of Economic Law. Majoras and her MoJ interlocutors agreed that consumer protection cooperation has lagged behind the FTC's antitrust dialogue with GoB agencies. In particular, Tavares was interested in establishing an exchange program with the FTC for MoJ employees, similar to the existing employee exchange program between FTC and CADE. Majoras said the FTC program, made possible by a new law that eliminated some of the confidentiality issues that previously limited participation by officials from other governments, applies

equally to both antitrust and consumer protection exchanges.

14. (SBU) Majoras noted the need for enhanced international cooperation in light of increasing global interest in eliminating consumer fraud. She called for sharing best practices such as the U.S. consumer fraud database, accessible to over 1,600 U.S. law enforcement agencies. Majoras noted that the FTC has made consumer protection a high priority and had increased its efforts in areas such as internet fraud, health care fraud, and consumer education targeting at-risk groups such as Hispanic immigrants. Majoras and Tavares also discussed the possibility of incorporating Brazil into a multinational consumer complaint database maintained by the FTC.

15. (SBU) Tavares described a planned GoB national security program that will include a consumer protection component and will utilize a consolidated state and federal consumer complaint database (launched in 2005) to identify and focus on regions of the country most in need of consumer protection assistance. This program will also incorporate existing GoB consumer education programs at consumer protection units around the country in order to target teenagers and young adults. Tavares also described a bill recently introduced in the Brazilian Congress that would combine the antitrust functions of the MoJ and the Ministry of Finance (MoF) into those of CADE. The bill would also revise the country's licensing and anti-cartel systems.

16. (SBU) In a separate MoJ meeting with Vice Minister Luiz Barreto and Secretary for Economic Law Tavares, Barreto told Majoras that the MoJ would be open to strengthening its consumer protection cooperation with the FTC. He outlined GoB concerns regarding competition with China and regarding the quality of imported items from China that may pose a direct danger to consumers. He said it was easier to police product quality in cases where Chinese-made products were not entering Brazil using accepted brand names.

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Majoras noted the USG is monitoring Chinese implementation of its new competition law in order to determine the law's overall effectiveness in light of Chinese market dynamics.

17. (SBU) Tavares told Majoras that, while Brazil was in "good shape" on competition issues, the country needed further improvements in addressing consumer protection. She said the GoB would like to share more information with the USG on its experiences in working on consumer protection issues with multi-national companies.

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Meeting at the Administrative Council for Consumer Defense (CADE)  
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18. (U) Majoras next met with Elizabeth Farina, President of the Administrative Council for Consumer Defense (CADE) and the organization's commissioners at CADE headquarters. CADE is an autonomous GoB agency charged with adjudicating whether business mergers or suspected cases of anticompetitive business conduct violate Brazilian antitrust law based on investigations conducted by the Secretariat of Economic Law at MoJ and the Secretariat of Economic Monitoring at the Ministry of Finance (MoF). It is comprised of a Plenary Council or Board with a Chairman and six Commissioners who are appointed to two-year terms by the Brazilian President with the consent of the Senate. This agency has a history of close bilateral cooperation with the FTC and the meeting explored several technical issues.

19. (SBU) CADE Commissioners were interested in the FTC pre-merger review process, the respective roles of lawyers and economists at FTC, the function of Commissioners at the FTC in the case review process, the role of Administrative Law Judges in the FTC's work, and the circumstances in which FTC meetings are open or closed to the public. CADE officials also asked about the U.S. "state action" doctrine, which limits the ability of antitrust agencies to review allegedly anticompetitive activities authorized and supervised by the states. At Farina's request, Majoras agreed to allow the CADE employee currently working at FTC to participate in pre-merger

review work there. After the meeting, Majoras answered questions from around 40 CADE employees on the functioning of the FTC in the U.S.

¶10. (U) Comment: The Chairman's visit provided an excellent opportunity to further U.S.-Brazilian information exchange on antitrust issues and provided an important opening for expanding U.S.-Brazilian cooperation on consumer protection. End Comment.

¶11. (U) This cable was cleared by the Federal Trade Commission delegation.

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